

1
2 An act relating to out-of-home care; repealing
3 s. 39.521(5), F.S., relating to the mandatory
4 assessment of specified children for placement
5 in licensed residential group care; creating s.
6 39.523, F.S.; prescribing procedures for the
7 mandatory assessment of certain children for
8 placement in licensed residential group care;
9 providing for reports; providing for a
10 specialized residential group care services
11 appropriations category in the General
12 Appropriations Act; providing for funding
13 increases to be appropriated in a lump-sum
14 category; specifying that the release of
15 certain funds is contingent on the approval of
16 a spending plan; prescribing elements of the
17 plan; authorizing one-time startup funding;
18 amending s. 39.407, F.S.; clarifying that the
19 Department of Children and Family Services may
20 place a child who is in its custody in a
21 residential treatment center without prior
22 approval of the court; amending s. 409.1671,
23 F.S.; specifying timeframes for initiating and
24 for completing privatization of foster care and
25 related services; requiring cooperative
26 planning agreements between lead
27 community-based providers and Healthy Families
28 Florida lead agencies for certain purposes;
29 providing for the establishment of a model
30 comprehensive residential services program in
31 specified counties; providing that

1 community-based providers and subcontractors
2 require employees to obtain bodily injury
3 liability insurance on personal automobiles;
4 providing certain immunity from liability when
5 transporting clients in privately owned
6 automobiles; directing the Department of
7 Children and Family Services to adopt written
8 policies and procedures for contract monitoring
9 of community-based providers; modifying the
10 requirement for community-based providers to
11 furnish information to the department;
12 modifying the conditions under which a provider
13 may close a case; modifying the requirements
14 concerning dual licensure of foster homes;
15 authorizing the department to adopt rules;
16 eliminating the authority for a risk pool;
17 requiring the development of a proposal for a
18 statewide shared earnings program; providing
19 for use of excess federal earnings and certain
20 additional state funds for the development of
21 the proposal; providing for submission of the
22 proposal to the Legislative Budget Commission
23 and for submission to the Legislature under
24 certain conditions; requiring that the
25 Legislature appropriate a lump sum in the
26 Administered Funds Program each year for a
27 specified purpose; specifying the type of bond
28 that may be required; eliminating a specified
29 expiration for this program; eliminating an
30 obsolete review requirement; amending s.
31 409.1676, F.S.; providing intent that the

1 Department of Children and Family Services and
2 the Department of Juvenile Justice establish an
3 interagency agreement regarding referral to
4 residential group care facilities; specifying
5 that a residential group care facility must be
6 licensed as a child-caring agency; requiring
7 such facilities serving certain children to
8 meet specified staff qualifications; redefining
9 and adding terms; redefining the term "serious
10 behavioral problems"; authorizing the
11 department to adopt rules; removing a reference
12 to specific districts and regions of the
13 department; amending s. 409.175, F.S.;
14 conforming the definition of "family foster
15 home"; providing criteria for the number of
16 children placed in each family foster home;
17 providing for a comprehensive behavioral health
18 assessment of each child under certain
19 circumstances; requiring assessment of the
20 appropriateness of the number of children as a
21 condition of annual relicensure; correcting
22 cross references; amending s. 409.906, F.S.;
23 expanding the authority for the establishment
24 of child welfare targeted case management
25 projects; eliminating reference to a pilot
26 project; eliminating the requirement to report
27 to the Child Welfare Estimating Conference
28 regarding targeted case management; amending
29 ss. 393.0657, 402.3057, and 409.1757, F.S.;
30 correcting cross references; directing the
31 Office of Program Policy Analysis and

1 Government Accountability, in consultation with
2 the Agency for Health Care Administration, to
3 conduct a review of the process for placing
4 children for residential mental health
5 treatment; providing for a report to the
6 Governor and Legislature; providing an
7 effective date.

8
9 Be It Enacted by the Legislature of the State of Florida:

10

11 Section 1. Subsection (5) of section 39.521, Florida
12 Statutes, is repealed.

13 Section 2. Section 39.523, Florida Statutes, is
14 created to read:

15 39.523 Placement in residential group care.--

16 (1) Except as provided in s. 39.407, any dependent
17 child 11 years of age or older who has been in licensed family
18 foster care for 6 months or longer and who is then moved more
19 than once and who is a child with extraordinary needs as
20 defined in s. 409.1676 must be assessed for placement in
21 licensed residential group care. The assessment procedures
22 shall be conducted by the department or its agent and shall
23 incorporate and address current and historical information
24 from any psychological testing or evaluation that has
25 occurred; current and historical information from the guardian
26 ad litem, if one has been assigned; current and historical
27 information from any current therapist, teacher, or other
28 professional who has knowledge of the child and has worked
29 with the child; information regarding the placement of any
30 siblings of the child and the impact of the child's placement
31 in residential group care on the child's siblings; the

1 circumstances necessitating the moves of the child while in
2 family foster care and the recommendations of the former
3 foster families, if available; the status of the child's case
4 plan and a determination as to the impact of placing the child
5 in residential group care on the goals of the case plan; the
6 age, maturity, and desires of the child concerning placement;
7 the availability of any less restrictive, more family-like
8 setting for the child in which the foster parents have the
9 necessary training and skills for providing a suitable
10 placement for the child; and any other information concerning
11 the availability of suitable residential group care. If such
12 placement is determined to be appropriate as a result of this
13 procedure, the child must be placed in residential group care,
14 if available.

15 (2) The results of the assessment described in
16 subsection (1) and the actions taken as a result of the
17 assessment must be included in the next judicial review of the
18 child. At each subsequent judicial review, the court must be
19 advised in writing of the status of the child's placement,
20 with special reference regarding the stability of the
21 placement and the permanency planning for the child.

22 (3) Any residential group care facility that receives
23 children under the provisions of this subsection shall
24 establish special permanency teams dedicated to overcoming the
25 special permanency challenges presented by this population of
26 children. Each facility shall report to the department its
27 success in achieving permanency for children placed by the
28 department in its care at intervals that allow the current
29 information to be provided to the court at each judicial
30 review for the child.

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1 (4) This section does not prohibit the department from
2 assessing and placing children who do not meet the criteria in
3 subsection (1) in residential group care if such placement is
4 the most appropriate placement for such children.

5 (5)(a) By December 1 of each year, the department
6 shall report to the Legislature on the placement of children
7 in licensed residential group care during the year, including
8 the criteria used to determine the placement of children, the
9 number of children who were evaluated for placement, the
10 number of children who were placed based upon the evaluation,
11 and the number of children who were not placed. The department
12 shall maintain data specifying the number of children who were
13 referred to licensed residential child care for whom placement
14 was unavailable and the counties in which such placement was
15 unavailable. The department shall include this data in its
16 report to the Legislature due on December 1, so that the
17 Legislature may consider this information in developing the
18 General Appropriations Act.

19 (b) As part of the report required in paragraph (a),
20 the department shall also provide a detailed account of the
21 expenditures incurred for "Special Categories: Grants and Aids
22 - Specialized Residential Group Care Services" for the fiscal
23 year immediately preceding the date of the report. This
24 section of the report must include whatever supporting data is
25 necessary to demonstrate full compliance with paragraph
26 (6)(c). The document must present the information by district
27 and must specify, at a minimum, the number of additional beds,
28 the average rate per bed, the number of additional persons
29 served, and a description of the enhanced and expanded
30 services provided.

31

1 (6)(a) The provisions of this section shall be
2 implemented to the extent of available appropriations
3 contained in the annual General Appropriations Act for such
4 purpose.

5 (b) Each year, funds included in the General
6 Appropriations Act for Enhanced Residential Group Care as
7 provided for in s. 409.1676, shall be appropriated in a
8 separately identified special category that is designated in
9 the act as "Special Categories: Grants and Aids - Specialized
10 Residential Group Care Services."

11 (c) Each fiscal year, all funding increases for
12 Enhanced Residential Group Care as provided in s. 409.1676,
13 which are included in the General Appropriations Act shall be
14 appropriated in a lump-sum category as defined in s.
15 216.011(1)(aa). In accordance with s. 216.181(6)(a), the
16 Executive Office of the Governor shall require the department
17 to submit a spending plan that identifies the residential
18 group care bed capacity shortage throughout the state and
19 proposes a distribution formula by district which addresses
20 the reported deficiencies. The spending plan must have as its
21 first priority the reduction or elimination of any bed
22 shortage identified and must also provide for program
23 enhancements to ensure that residential group care programs
24 meet a minimum level of expected performance and provide for
25 expansion of the comprehensive residential group care services
26 described in s. 409.1676. Annual appropriation increases
27 appropriated in the lump-sum appropriation must be used in
28 accordance with the provisions of the spending plan.

29 (d) Funds from "Special Categories: Grants and Aids -
30 Specialized Residential Group Care Services" may be used as
31 one-time startup funding for residential group care purposes

1 that include, but are not limited to, remodeling or renovation
2 of existing facilities, construction costs, leasing costs,
3 purchase of equipment and furniture, site development, and
4 other necessary and reasonable costs associated with the
5 startup of facilities or programs upon the recommendation of
6 the lead community-based provider if one exists and upon
7 specific approval of the terms and conditions by the secretary
8 of the department.

9 Section 3. Subsection (5) of section 39.407, Florida
10 Statutes, is amended to read:

11 39.407 Medical, psychiatric, and psychological
12 examination and treatment of child; physical or mental
13 examination of parent or person requesting custody of child.--

14 (5) Children who are in the legal custody of the
15 department may be placed by the department, without prior
16 approval of the court, in a residential treatment center
17 licensed under s. 394.875 or a hospital licensed under chapter
18 395 for residential mental health treatment only pursuant to
19 this section or may be placed by the court in accordance with
20 an order of involuntary examination or involuntary placement
21 entered pursuant to s. 394.463 or s. 394.467. All children
22 placed in a residential treatment program under this
23 subsection must have a guardian ad litem appointed.

24 (a) As used in this subsection, the term:

25 1. "Residential treatment" means placement for
26 observation, diagnosis, or treatment of an emotional
27 disturbance in a residential treatment center licensed under
28 s. 394.875 or a hospital licensed under chapter 395.

29 2. "Least restrictive alternative" means the treatment
30 and conditions of treatment that, separately and in
31 combination, are no more intrusive or restrictive of freedom

1 than reasonably necessary to achieve a substantial therapeutic
2 benefit or to protect the child or adolescent or others from
3 physical injury.

4 3. "Suitable for residential treatment" or
5 "suitability" means a determination concerning a child or
6 adolescent with an emotional disturbance as defined in s.
7 394.492(5) or a serious emotional disturbance as defined in s.
8 394.492(6) that each of the following criteria is met:

9 a. The child requires residential treatment.

10 b. The child is in need of a residential treatment
11 program and is expected to benefit from mental health
12 treatment.

13 c. An appropriate, less restrictive alternative to
14 residential treatment is unavailable.

15 (b) Whenever the department believes that a child in
16 its legal custody is emotionally disturbed and may need
17 residential treatment, an examination and suitability
18 assessment must be conducted by a qualified evaluator who is
19 appointed by the Agency for Health Care Administration. This
20 suitability assessment must be completed before the placement
21 of the child in a residential treatment center for emotionally
22 disturbed children and adolescents or a hospital. The
23 qualified evaluator must be a psychiatrist or a psychologist
24 licensed in Florida who has at least 3 years of experience in
25 the diagnosis and treatment of serious emotional disturbances
26 in children and adolescents and who has no actual or perceived
27 conflict of interest with any inpatient facility or
28 residential treatment center or program.

29 (c) Before a child is admitted under this subsection,
30 the child shall be assessed for suitability for residential
31 treatment by a qualified evaluator who has conducted a

1 personal examination and assessment of the child and has made
2 written findings that:

3 1. The child appears to have an emotional disturbance
4 serious enough to require residential treatment and is
5 reasonably likely to benefit from the treatment.

6 2. The child has been provided with a clinically
7 appropriate explanation of the nature and purpose of the
8 treatment.

9 3. All available modalities of treatment less
10 restrictive than residential treatment have been considered,
11 and a less restrictive alternative that would offer comparable
12 benefits to the child is unavailable.

13

14 A copy of the written findings of the evaluation and
15 suitability assessment must be provided to the department and
16 to the guardian ad litem, who shall have the opportunity to
17 discuss the findings with the evaluator.

18 (d) Immediately upon placing a child in a residential
19 treatment program under this section, the department must
20 notify the guardian ad litem and the court having jurisdiction
21 over the child and must provide the guardian ad litem and the
22 court with a copy of the assessment by the qualified
23 evaluator.

24 (e) Within 10 days after the admission of a child to a
25 residential treatment program, the director of the residential
26 treatment program or the director's designee must ensure that
27 an individualized plan of treatment has been prepared by the
28 program and has been explained to the child, to the
29 department, and to the guardian ad litem, and submitted to the
30 department. The child must be involved in the preparation of
31 the plan to the maximum feasible extent consistent with his or

1 her ability to understand and participate, and the guardian ad
2 litem and the child's foster parents must be involved to the
3 maximum extent consistent with the child's treatment needs.
4 The plan must include a preliminary plan for residential
5 treatment and aftercare upon completion of residential
6 treatment. The plan must include specific behavioral and
7 emotional goals against which the success of the residential
8 treatment may be measured. A copy of the plan must be provided
9 to the child, to the guardian ad litem, and to the department.

10 (f) Within 30 days after admission, the residential
11 treatment program must review the appropriateness and
12 suitability of the child's placement in the program. The
13 residential treatment program must determine whether the child
14 is receiving benefit towards the treatment goals and whether
15 the child could be treated in a less restrictive treatment
16 program. The residential treatment program shall prepare a
17 written report of its findings and submit the report to the
18 guardian ad litem and to the department. The department must
19 submit the report to the court. The report must include a
20 discharge plan for the child. The residential treatment
21 program must continue to evaluate the child's treatment
22 progress every 30 days thereafter and must include its
23 findings in a written report submitted to the department. The
24 department may not reimburse a facility until the facility has
25 submitted every written report that is due.

26 (g)1. The department must submit, at the beginning of
27 each month, to the court having jurisdiction over the child, a
28 written report regarding the child's progress towards
29 achieving the goals specified in the individualized plan of
30 treatment.

31

1 2. The court must conduct a hearing to review the
2 status of the child's residential treatment plan no later than
3 3 months after the child's admission to the residential
4 treatment program. An independent review of the child's
5 progress towards achieving the goals and objectives of the
6 treatment plan must be completed by a qualified evaluator and
7 submitted to the court before its 3-month review.

8 3. For any child in residential treatment at the time
9 a judicial review is held pursuant to s. 39.701, the child's
10 continued placement in residential treatment must be a subject
11 of the judicial review.

12 4. If at any time the court determines that the child
13 is not suitable for continued residential treatment, the court
14 shall order the department to place the child in the least
15 restrictive setting that is best suited to meet his or her
16 needs.

17 (h) After the initial 3-month review, the court must
18 conduct a review of the child's residential treatment plan
19 every 90 days.

20 (i) The department must adopt rules for implementing
21 timeframes for the completion of suitability assessments by
22 qualified evaluators and a procedure that includes timeframes
23 for completing the 3-month independent review by the qualified
24 evaluators of the child's progress towards achieving the goals
25 and objectives of the treatment plan which review must be
26 submitted to the court. The Agency for Health Care
27 Administration must adopt rules for the registration of
28 qualified evaluators, the procedure for selecting the
29 evaluators to conduct the reviews required under this section,
30 and a reasonable, cost-efficient fee schedule for qualified
31 evaluators.

1 Section 4. Section 409.1671, Florida Statutes, is
2 amended to read:

3 409.1671 Foster care and related services;
4 privatization.--

5 (1)(a) It is the intent of the Legislature that the
6 Department of Children and Family Services shall privatize the
7 provision of foster care and related services statewide. It is
8 further the Legislature's intent to encourage communities and
9 other stakeholders in the well-being of children to
10 participate in assuring that children are safe and
11 well-nurtured. However, while recognizing that some local
12 governments are presently funding portions of certain foster
13 care and related services programs and may choose to expand
14 such funding in the future, the Legislature does not intend by
15 its privatization of foster care and related services that any
16 county, municipality, or special district be required to
17 assist in funding programs that previously have been funded by
18 the state. Nothing in this paragraph prohibits any county,
19 municipality, or special district from future voluntary
20 funding participation in foster care and related services. As
21 used in this section, the term "privatize" means to contract
22 with competent, community-based agencies. The department shall
23 submit a plan to accomplish privatization statewide, through a
24 competitive process, phased in over a 3-year period beginning
25 January 1, 2000. This plan must be developed with local
26 community participation, including, but not limited to, input
27 from community-based providers that are currently under
28 contract with the department to furnish community-based foster
29 care and related services, and must include a methodology for
30 determining and transferring all available funds, including
31 federal funds that the provider is eligible for and agrees to

1 earn and that portion of general revenue funds which is
2 currently associated with the services that are being
3 furnished under contract. The methodology must provide for the
4 transfer of funds appropriated and budgeted for all services
5 and programs that have been incorporated into the project,
6 including all management, capital (including current furniture
7 and equipment), and administrative funds to accomplish the
8 transfer of these programs. This methodology must address
9 expected workload and at least the 3 previous years'
10 experience in expenses and workload. With respect to any
11 district or portion of a district in which privatization
12 cannot be accomplished within the 3-year timeframe, the
13 department must clearly state in its plan the reasons the
14 timeframe cannot be met and the efforts that should be made to
15 remediate the obstacles, which may include alternatives to
16 total privatization, such as public-private partnerships. As
17 used in this section, the term "related services" includes,
18 but is not limited to, family preservation, independent
19 living, emergency shelter, residential group care, foster
20 care, therapeutic foster care, intensive residential
21 treatment, foster care supervision, case management,
22 postplacement supervision, permanent foster care, and family
23 reunification. Unless otherwise provided for, beginning in
24 fiscal year 1999-2000, either the state attorney or the Office
25 of the Attorney General shall provide child welfare legal
26 services, pursuant to chapter 39 and other relevant
27 provisions, in Sarasota, Pinellas, Pasco, Broward, and Manatee
28 Counties. Such legal services shall commence and be
29 effective, as soon as determined reasonably feasible by the
30 respective state attorney or the Office of the Attorney
31 General, after the privatization of associated programs and

1 child protective investigations has occurred. When a private
2 nonprofit agency has received case management
3 responsibilities, transferred from the state under this
4 section, for a child who is sheltered or found to be dependent
5 and who is assigned to the care of the privatization project,
6 the agency may act as the child's guardian for the purpose of
7 registering the child in school if a parent or guardian of the
8 child is unavailable and his or her whereabouts cannot
9 reasonably be ascertained. The private nonprofit agency may
10 also seek emergency medical attention for such a child, but
11 only if a parent or guardian of the child is unavailable, his
12 or her whereabouts cannot reasonably be ascertained, and a
13 court order for such emergency medical services cannot be
14 obtained because of the severity of the emergency or because
15 it is after normal working hours. However, the provider may
16 not consent to sterilization, abortion, or termination of life
17 support. If a child's parents' rights have been terminated,
18 the nonprofit agency shall act as guardian of the child in all
19 circumstances.

20 (b) It is the intent of the Legislature that the
21 department will continue to work towards full privatization by
22 initiating the competitive procurement process in each county
23 by January 1, 2003. In order to provide for an adequate
24 transition period to develop the necessary administrative and
25 service delivery capacity in each community, the full transfer
26 of all foster care and related services must be completed
27 statewide by December 31, 2004.

28 (c)~~(b)~~ As used in this section, the term "eligible
29 lead community-based provider" means a single agency with
30 which the department shall contract for the provision of child
31 protective services in a community that is no smaller than a

1 county. The secretary of the department may authorize more
2 than one eligible lead community-based provider within a
3 single county when to do so will result in more effective
4 delivery of foster care and related services. To compete for a
5 privatization project, such agency must have:

- 6 1. The ability to coordinate, integrate, and manage
7 all child protective services in the designated community in
8 cooperation with child protective investigations.
- 9 2. The ability to ensure continuity of care from entry
10 to exit for all children referred from the protective
11 investigation and court systems.
- 12 3. The ability to provide directly, or contract for
13 through a local network of providers, all necessary child
14 protective services.
- 15 4. The willingness to accept accountability for
16 meeting the outcomes and performance standards related to
17 child protective services established by the Legislature and
18 the Federal Government.
- 19 5. The capability and the willingness to serve all
20 children referred to it from the protective investigation and
21 court systems, regardless of the level of funding allocated to
22 the community by the state, provided all related funding is
23 transferred.
- 24 6. The willingness to ensure that each individual who
25 provides child protective services completes the training
26 required of child protective service workers by the Department
27 of Children and Family Services.
- 28 7. The ability to maintain eligibility to receive all
29 federal child welfare funds, including Title IV-E and IV-A
30 funds, currently being used by the Department of Children and
31 Family Services.

1 8. Written agreements with Healthy Families Florida
2 lead entities in their community, pursuant to s. 409.153, to
3 promote cooperative planning for the provision of prevention
4 and intervention services.

5 ~~(d)(c)~~1. If attempts to competitively procure services
6 through an eligible lead community-based provider as defined
7 in paragraph~~(c)(b)~~ do not produce a capable and willing
8 agency, the department shall develop a plan in collaboration
9 with the local community alliance. The plan must detail how
10 the community will continue to implement privatization, to be
11 accomplished by December 31, 2004, through competitively
12 procuring either the specific components of foster care and
13 related services or comprehensive services for defined
14 eligible populations of children and families from qualified
15 licensed agencies as part of its efforts to develop the local
16 capacity for a community-based system of coordinated care. The
17 plan must ensure local control over the management and
18 administration of the service provision in accordance with the
19 intent of this section and may include recognized best
20 business practices, including some form of public or private
21 partnerships. In the absence of a community alliance, the plan
22 must be submitted to the President of the Senate and the
23 Speaker of the House of Representatives for their comments.

24 2. The Legislature finds that the state has
25 traditionally provided foster care services to children who
26 have been the responsibility of the state. As such, foster
27 children have not had the right to recover for injuries beyond
28 the limitations specified in s. 768.28. The Legislature has
29 determined that foster care and related services need to be
30 privatized pursuant to this section and that the provision of
31 such services is of paramount importance to the state. The

1 purpose for such privatization is to increase the level of
2 safety, security, and stability of children who are or become
3 the responsibility of the state. One of the components
4 necessary to secure a safe and stable environment for such
5 children is that private providers maintain liability
6 insurance. As such, insurance needs to be available and remain
7 available to nongovernmental foster care and related services
8 providers without the resources of such providers being
9 significantly reduced by the cost of maintaining such
10 insurance.

11 3. The Legislature further finds that, by requiring
12 the following minimum levels of insurance, children in
13 privatized foster care and related services will gain
14 increased protection and rights of recovery in the event of
15 injury than provided for in s. 768.28.

16 (e) In any county in which a service contract has not
17 been executed by December 31, 2004, the department shall
18 ensure access to a model comprehensive residential services
19 program as described in s. 409.1677 which, without imposing
20 undue financial, geographic, or other barriers, ensures
21 reasonable and appropriate participation by the family in the
22 child's program.

23 1. In order to ensure that the program is operational
24 by December 31, 2004, the department must, by December 31,
25 2003, begin the process of establishing access to a program in
26 any county in which the department has not either entered into
27 a transition contract or approved a community plan, as
28 described in paragraph (d), which ensures full privatization
29 by the statutory deadline.

30 2. The program must be procured through a competitive
31 process.

1 3. The Legislature does not intend for the provisions
2 of this paragraph to substitute for the requirement that full
3 conversion to community-based care be accomplished.

4 ~~(f)(d)~~ Other than an entity to which s. 768.28
5 applies, any eligible lead community-based provider, as
6 defined in paragraph~~(c)(b)~~, or its employees or officers,
7 except as otherwise provided in paragraph~~(g)(e)~~, must, as a
8 part of its contract, obtain a minimum of \$1 million per
9 claim/\$3 million per incident in general liability insurance
10 coverage. The eligible lead community-based provider must also
11 require that staff who transport client children and families
12 in their personal automobiles in order to carry out their job
13 responsibilities obtain minimum bodily injury liability
14 insurance in the amount of \$100,000 per claim, \$300,000 per
15 incident, on their personal automobiles.In any tort action
16 brought against such an eligible lead community-based provider
17 or employee, net economic damages shall be limited to \$1
18 million per liability claim and \$100,000 per automobile claim,
19 including, but not limited to, past and future medical
20 expenses, wage loss, and loss of earning capacity, offset by
21 any collateral source payment paid or payable. In any tort
22 action brought against such an eligible lead community-based
23 provider, noneconomic damages shall be limited to \$200,000 per
24 claim. A claims bill may be brought on behalf of a claimant
25 pursuant to s. 768.28 for any amount exceeding the limits
26 specified in this paragraph. Any offset of collateral source
27 payments made as of the date of the settlement or judgment
28 shall be in accordance with s. 768.76. The lead
29 community-based provider shall not be liable in tort for the
30 acts or omissions of its subcontractors or the officers,
31 agents, or employees of its subcontractors.

1 ~~(g)(e)~~ The liability of an eligible lead
2 community-based provider described in this section shall be
3 exclusive and in place of all other liability of such
4 provider. The same immunities from liability enjoyed by such
5 providers shall extend as well to each employee of the
6 provider when such employee is acting in furtherance of the
7 provider's business, including the transportation of clients
8 served, as described in this subsection, in privately owned
9 vehicles. Such immunities shall not be applicable to a
10 provider or an employee who acts in a culpably negligent
11 manner or with willful and wanton disregard or unprovoked
12 physical aggression when such acts result in injury or death
13 or such acts proximately cause such injury or death; nor shall
14 such immunities be applicable to employees of the same
15 provider when each is operating in the furtherance of the
16 provider's business, but they are assigned primarily to
17 unrelated works within private or public employment. The same
18 immunity provisions enjoyed by a provider shall also apply to
19 any sole proprietor, partner, corporate officer or director,
20 supervisor, or other person who in the course and scope of his
21 or her duties acts in a managerial or policymaking capacity
22 and the conduct that caused the alleged injury arose within
23 the course and scope of those managerial or policymaking
24 duties. Culpable negligence is defined as reckless
25 indifference or grossly careless disregard of human life.

26 ~~(h)(f)~~ Any subcontractor of an eligible lead
27 community-based provider, as defined in paragraph~~(c)(b)~~,
28 which is a direct provider of foster care and related services
29 to children and families, and its employees or officers,
30 except as otherwise provided in paragraph~~(g)(e)~~, must, as a
31 part of its contract, obtain a minimum of \$1 million per

1 claim/\$3 million per incident in general liability insurance
2 coverage. The subcontractor of an eligible lead
3 community-based provider must also require that staff who
4 transport client children and families in their personal
5 automobiles in order to carry out their job responsibilities
6 obtain minimum bodily injury liability insurance in the amount
7 of \$100,000 per claim, \$300,000 per incident, on their
8 personal automobiles.In any tort action brought against such
9 subcontractor or employee, net economic damages shall be
10 limited to \$1 million per liability claim and \$100,000 per
11 automobile claim, including, but not limited to, past and
12 future medical expenses, wage loss, and loss of earning
13 capacity, offset by any collateral source payment paid or
14 payable. In any tort action brought against such
15 subcontractor, noneconomic damages shall be limited to
16 \$200,000 per claim. A claims bill may be brought on behalf of
17 a claimant pursuant to s. 768.28 for any amount exceeding the
18 limits specified in this paragraph. Any offset of collateral
19 source payments made as of the date of the settlement or
20 judgment shall be in accordance with s. 768.76.

21 (i)(g) The liability of a subcontractor of an eligible
22 lead community-based provider that is a direct provider of
23 foster care and related services as described in this section
24 shall be exclusive and in place of all other liability of such
25 provider. The same immunities from liability enjoyed by such
26 subcontractor provider shall extend as well to each employee
27 of the subcontractor when such employee is acting in
28 furtherance of the subcontractor's business, including the
29 transportation of clients served, as described in this
30 subsection, in privately owned vehicles. Such immunities shall
31 not be applicable to a subcontractor or an employee who acts

1 in a culpably negligent manner or with willful and wanton
2 disregard or unprovoked physical aggression when such acts
3 result in injury or death or such acts proximately cause such
4 injury or death; nor shall such immunities be applicable to
5 employees of the same subcontractor when each is operating in
6 the furtherance of the subcontractor's business, but they are
7 assigned primarily to unrelated works within private or public
8 employment. The same immunity provisions enjoyed by a
9 subcontractor shall also apply to any sole proprietor,
10 partner, corporate officer or director, supervisor, or other
11 person who in the course and scope of his or her duties acts
12 in a managerial or policymaking capacity and the conduct that
13 caused the alleged injury arose within the course and scope of
14 those managerial or policymaking duties. Culpable negligence
15 is defined as reckless indifference or grossly careless
16 disregard of human life.

17 (j)~~(h)~~ The Legislature is cognizant of the increasing
18 costs of goods and services each year and recognizes that
19 fixing a set amount of compensation actually has the effect of
20 a reduction in compensation each year. Accordingly, the
21 conditional limitations on damages in this section shall be
22 increased at the rate of 5 percent each year, prorated from
23 the effective date of this paragraph to the date at which
24 damages subject to such limitations are awarded by final
25 judgment or settlement.

26 (2)(a) The department may contract for the delivery,
27 administration, or management of protective services, the
28 services specified in subsection (1) relating to foster care,
29 and other related services or programs, as appropriate. The
30 department shall retain responsibility for the quality of
31 contracted services and programs and shall ensure that

1 services are delivered in accordance with applicable federal
2 and state statutes and regulations. The department must adopt
3 written policies and procedures for monitoring the contract
4 for delivery of services by lead community-based providers.
5 These policies and procedures must, at a minimum, address the
6 evaluation of fiscal accountability and program operations,
7 including provider achievement of performance standards,
8 provider monitoring of subcontractors, and timely followup of
9 corrective actions for significant monitoring findings related
10 to providers and subcontractors. These policies and procedures
11 must also include provisions for reducing the duplication of
12 the department's program monitoring activities both internally
13 and with other agencies, to the extent possible. The
14 department's written procedures must ensure that the written
15 findings, conclusions, and recommendations from monitoring the
16 contract for services of lead community-based providers are
17 communicated to the director of the provider agency as
18 expeditiously as possible.

19 (b) Persons employed by the department in the
20 provision of foster care and related services whose positions
21 are being privatized pursuant to this statute shall be given
22 hiring preference by the provider, if provider qualifications
23 are met.

24 (3)(a) In order to help ensure a seamless child
25 protection system, the department shall ensure that contracts
26 entered into with community-based agencies pursuant to this
27 section include provisions for a case-transfer process to
28 determine the date that the community-based agency will
29 initiate the appropriate services for a child and family. This
30 case-transfer process must clearly identify the closure of the
31 protective investigation and the initiation of service

1 provision. At the point of case transfer, and at the
2 conclusion of an investigation, the department must provide a
3 complete summary of the findings of the investigation to the
4 community-based agency.

5 (b) The contracts must also ensure that each
6 community-based agency shall furnish information on its
7 activities in all cases in client case records ~~regular status~~
8 ~~reports of its cases to the department as specified in the~~
9 ~~contract~~. A provider may not discontinue services on any
10 voluntary case without prior written notification to the
11 department 30 days before planned case closure. If the
12 department disagrees with the recommended case closure date,
13 written notification to the provider must be provided before
14 the case closure date.~~without prior written notification to~~
15 ~~the department. After discontinuing services to a child or a~~
16 ~~child and family, the community-based agency must provide a~~
17 ~~written case summary, including its assessment of the child~~
18 ~~and family, to the department.~~

19 (c) The contract between the department and
20 community-based agencies must include provisions that specify
21 the procedures to be used by the parties to resolve
22 differences in interpreting the contract or to resolve
23 disputes as to the adequacy of the parties' compliance with
24 their respective obligations under the contract.

25 (4)(a) The department shall establish a quality
26 assurance program for privatized services. The quality
27 assurance program shall be based on standards established by a
28 national accrediting organization such as the Council on
29 Accreditation of Services for Families and Children, Inc.
30 (COA) or CARF--the Rehabilitation Accreditation Commission.
31 The department may develop a request for proposal for such

1 oversight. This program must be developed and administered at
2 a statewide level. The Legislature intends that the department
3 be permitted to have limited flexibility to use funds for
4 improving quality assurance. To this end, effective January 1,
5 2000, the department may transfer up to 0.125 percent of the
6 total funds from categories used to pay for these
7 contractually provided services, but the total amount of such
8 transferred funds may not exceed \$300,000 in any fiscal year.
9 When necessary, the department may establish, in accordance
10 with s. 216.177, additional positions that will be exclusively
11 devoted to these functions. Any positions required under this
12 paragraph may be established, notwithstanding ss.
13 216.262(1)(a) and 216.351. The department, in consultation
14 with the community-based agencies that are undertaking the
15 privatized projects, shall establish minimum thresholds for
16 each component of service, consistent with standards
17 established by the Legislature. Each program operated under
18 contract with a community-based agency must be evaluated
19 annually by the department. The department shall submit an
20 annual report regarding quality performance, outcome measure
21 attainment, and cost efficiency to the President of the
22 Senate, the Speaker of the House of Representatives, the
23 minority leader of each house of the Legislature, and the
24 Governor no later than January 31 of each year for each
25 project in operation during the preceding fiscal year.

26 (b) The department shall use these findings in making
27 recommendations to the Governor and the Legislature for future
28 program and funding priorities in the child welfare system.

29 (5)(a) The community-based agency must comply with
30 statutory requirements and agency rules in the provision of
31 contractual services. Each foster home, therapeutic foster

1 home, emergency shelter, or other placement facility operated
2 by the community-based agency or agencies must be licensed by
3 the Department of Children and Family Services under chapter
4 402 or this chapter. Each community-based agency must be
5 licensed as a child-caring or child-placing agency by the
6 department under this chapter. The department, in order to
7 eliminate or reduce the number of duplicate inspections by
8 various program offices, shall coordinate inspections required
9 pursuant to licensure of agencies under this section.

10 (b) Substitute care providers who are licensed under
11 s. 409.175 and have contracted with a lead agency authorized
12 under this section shall also be authorized to provide
13 registered or licensed family day care under s. 402.313, if
14 consistent with federal law and if the home has met+

15 ~~1. the requirements of s. 402.313, and~~

16 ~~2. The requirements of s. 402.281 and has received~~
17 ~~Gold Seal Quality Care designation.~~

18 (c) A dually licensed home under this section shall be
19 eligible to receive both an out-of-home care payment and a
20 subsidized child care payment for the same child pursuant to
21 federal law. The department may adopt administrative rules
22 necessary to administer this paragraph ~~the foster care board~~
23 ~~rate and the subsidized child care rate for the same child~~
24 ~~only if care is provided 24 hours a day. The subsidized child~~
25 ~~care rate shall be no more than the approved full-time rate.~~

26 (6) Beginning January 1, 1999, and continuing at least
27 through June 30, 2000, the Department of Children and Family
28 Services shall privatize all foster care and related services
29 in district 5 while continuing to contract with the current
30 model programs in districts 1, 4, and 13, and in subdistrict
31 8A, and shall expand the subdistrict 8A pilot program to

1 incorporate Manatee County. Planning for the district 5
2 privatization shall be done by providers that are currently
3 under contract with the department for foster care and related
4 services and shall be done in consultation with the
5 department. A lead provider of the district 5 program shall
6 be competitively selected, must demonstrate the ability to
7 provide necessary comprehensive services through a local
8 network of providers, and must meet criteria established in
9 this section. Contracts with organizations responsible for the
10 model programs must include the management and administration
11 of all privatized services specified in subsection (1).
12 However, the department may use funds for contract management
13 only after obtaining written approval from the Executive
14 Office of the Governor. The request for such approval must
15 include, but is not limited to, a statement of the proposed
16 amount of such funds and a description of the manner in which
17 such funds will be used. If the community-based organization
18 selected for a model program under this subsection is not a
19 Medicaid provider, the organization shall be issued a Medicaid
20 provider number pursuant to s. 409.907 for the provision of
21 services currently authorized under the state Medicaid plan to
22 those children encompassed in this model and in a manner not
23 to exceed the current level of state expenditure.

24 (7) The department, in consultation with existing lead
25 agencies, shall develop a proposal regarding the long-term use
26 and structure of a statewide shared earnings program which
27 addresses ~~is authorized to establish and administer a risk~~
28 ~~pool to reduce~~ the financial risk to eligible lead
29 community-based providers resulting from unanticipated
30 caseload growth or from significant changes in client mixes or
31 services eligible for federal reimbursement. The

1 recommendations in the statewide proposal must also be
2 available to entities of the department until the conversion
3 to community-based care takes place. At a minimum, the
4 proposal must allow for use of federal earnings received from
5 child welfare programs, which earnings are determined by the
6 department to be in excess of the amount appropriated in the
7 General Appropriations Act, to be used for specific purposes.
8 These purposes include, but are not limited to:
9 (a) Significant changes in the number or composition
10 of clients eligible to receive services.
11 (b) Significant changes in the services that are
12 eligible for reimbursement.
13 (c) Significant changes in the availability of federal
14 funds.
15 (d) Shortfalls in state funds available for eligible
16 or ineligible services.
17 (e) Significant changes in the mix of available funds.
18 (f) Scheduled or unanticipated, but necessary,
19 advances to providers or other cash-flow issues.
20 (g) Proposals to participate in optional Medicaid
21 services or other federal grant opportunities.
22 (h) Appropriate incentive structures.
23 (i) Continuity of care in the event of lead agency
24 failure, discontinuance of service, or financial misconduct.
25
26 The department shall further specify the necessary steps to
27 ensure the financial integrity of these dollars and their
28 continued availability on an ongoing basis. The final proposal
29 shall be submitted to the Legislative Budget Commission for
30 formal adoption before December 31, 2002. If the Legislative
31 Budget Commission refuses to concur with the adoption of the

1 proposal, the department shall present its proposal in the
2 form of recommended legislation to the President of the Senate
3 and the Speaker of the House of Representatives before the
4 commencement of the next legislative session. For fiscal year
5 2003-2004 and annually thereafter, the Department of Children
6 and Family Services may request in its legislative budget
7 request, and the Governor may recommend, the funding necessary
8 to carry out paragraph (i) from excess federal earnings. The
9 General Appropriations Act shall include any funds
10 appropriated for this purpose in a lump sum in the
11 Administered Funds Program, which funds constitute partial
12 security for lead agency contract performance. The department
13 shall use this appropriation to offset the need for a
14 performance bond for that year after a comparison of risk to
15 the funds available. In no event shall this performance bond
16 exceed 2.5 percent of the annual contract value. The
17 department may separately require a bond to mitigate the
18 financial consequences of potential acts of malfeasance,
19 misfeasance, or criminal violations by the provider. Prior to
20 the release of any funds in the lump sum, the department shall
21 submit a detailed operational plan, which must identify the
22 sources of specific trust funds to be used. The release of the
23 trust fund shall be subject to the notice and review
24 provisions of s. 216.177. However, the release shall not
25 require approval of the Legislative Budget Commission.

26 (8) Notwithstanding the provisions of s. 215.425, all
27 documented federal funds earned for the current fiscal year by
28 the department and community-based agencies which exceed the
29 amount appropriated by the Legislature shall be distributed to
30 all entities that contributed to the excess earnings based on
31 a schedule and methodology developed by the department and

1 approved by the Executive Office of the Governor. Distribution
2 shall be pro rata based on total earnings and shall be made
3 only to those entities that contributed to excess earnings.
4 Excess earnings of community-based agencies shall be used only
5 in the service district in which they were earned. Additional
6 state funds appropriated by the Legislature for
7 community-based agencies or made available pursuant to the
8 budgetary amendment process described in s. 216.177 shall be
9 transferred to the community-based agencies. The department
10 shall amend a community-based agency's contract to permit
11 expenditure of the funds. The distribution program applies
12 only to entities that were under privatization contracts as of
13 July 1, 2002 ~~1999~~. ~~This program is authorized for a period of~~
14 ~~3 years beginning July 1, 1999, and ending June 30, 2002. The~~
15 ~~Office of Program Policy Analysis and Government~~
16 ~~Accountability shall review this program and report to the~~
17 ~~President of the Senate and the Speaker of the House of~~
18 ~~Representatives by December 31, 2001. The review shall assess~~
19 ~~the program to determine how the additional resources were~~
20 ~~used, the number of additional clients served, the~~
21 ~~improvements in quality of service attained, the performance~~
22 ~~outcomes associated with the additional resources, and the~~
23 ~~feasibility of continuing or expanding this program.~~

24 (9) Each district and subdistrict that participates in
25 the model program effort or any future privatization effort as
26 described in this section must thoroughly analyze and report
27 the complete direct and indirect costs of delivering these
28 services through the department and the full cost of
29 privatization, including the cost of monitoring and evaluating
30 the contracted services.

31

1 Section 5. Section 409.1676, Florida Statutes, is
2 amended to read:

3 409.1676 Comprehensive residential group care services
4 to children who have extraordinary needs.--

5 (1) It is the intent of the Legislature to provide
6 comprehensive residential group care services, including
7 residential care, case management, and other services, to
8 children in the child protection system who have extraordinary
9 needs, ~~such as serious behavioral problems or having been~~
10 ~~determined to be without the options of either reunification~~
11 ~~with family or adoption.~~ These services are to be provided in
12 a residential group care setting by a not-for-profit
13 corporation or a local government entity under a contract with
14 the Department of Children and Family Services or by a lead
15 agency as described in s. 409.1671. These contracts should be
16 designed to provide an identified number of children with
17 access to a full array of services for a fixed price. Further,
18 it is the intent of the Legislature that the Department of
19 Children and Family Services and the Department of Juvenile
20 Justice establish an interagency agreement by December 1,
21 2002, which describes respective agency responsibilities for
22 referral, placement, service provision, and service
23 coordination for dependent and delinquent youth who are
24 referred to these residential group care facilities. The
25 agreement must require interagency collaboration in the
26 development of terms, conditions, and performance outcomes for
27 residential group care contracts serving the youth referred
28 who have been adjudicated both dependent and delinquent.

29 (2) As used in this section, the term:

30 (a) "Child with extraordinary needs" means a dependent
31 child who has serious behavioral problems or who has been

1 determined to be without the options of either reunification
2 with family or adoption.

3 (b)(a) "Residential group care" means a living
4 environment for children who have been adjudicated dependent
5 and are expected to be in foster care for at least 6 months
6 with 24-hour-awake staff or live-in group home parents or
7 staff. Each facility ~~Beginning July 1, 2001, all facilities~~
8 must be appropriately licensed in this state as a residential
9 child caring agency as defined in s. 409.175(2)(j), and they
10 must be accredited by July 1, 2005. A residential group care
11 facility serving children having a serious behavioral problem
12 as defined in this section must have available staff or
13 contract personnel with the clinical expertise, credentials,
14 and training to provide services identified in subsection (4).

15 (c)(b) "Serious behavioral problems" means behaviors
16 of children who have been assessed by a licensed
17 master's-level human-services professional to need at a
18 minimum intensive services but who do not meet the criteria of
19 s. 394.492(6) ~~or~~ (7). A child with an emotional disturbance as
20 defined in s. 394.492(5) or (6) may be served in residential
21 group care unless a determination is made by a mental health
22 professional that such a setting is inappropriate. A child
23 having a serious behavioral problem must have been determined
24 in the assessment to have at least one of the following risk
25 factors:

26 1. An adjudication of delinquency and be on
27 conditional release status with the Department of Juvenile
28 Justice.

29 2. A history of physical aggression or violent
30 behavior toward self or others, animals, or property within
31 the past year.

1 3. A history of setting fires within the past year.

2 4. A history of multiple episodes of running away from
3 home or placements within the past year.

4 5. A history of sexual aggression toward other youth.

5 (3) The department, in accordance with a specific
6 appropriation for this program, shall contract with a
7 not-for-profit corporation, a local government entity, or the
8 lead agency that has been established in accordance with s.
9 409.1671 for the performance of residential group care
10 services described in this section ~~in, at a minimum, districts~~
11 ~~4, 11, 12, and the Suncoast Region of the Department of~~
12 ~~Children and Family Services and with a not-for-profit entity~~
13 ~~serving children from multiple districts.~~ A lead agency that
14 is currently providing residential care may provide this
15 service directly with the approval of the local community
16 alliance. The department or a lead agency may contract for
17 more than one site in a county if that is determined to be the
18 most effective way to achieve the goals set forth in this
19 section.

20 (4) The lead agency, the contracted not-for-profit
21 corporation, or the local government entity is responsible for
22 a comprehensive assessment, residential care, transportation,
23 access to behavioral health services, recreational activities,
24 clothing, supplies, and miscellaneous expenses associated with
25 caring for these children; for necessary arrangement for or
26 provision of educational services; and for assuring necessary
27 and appropriate health and dental care.

28 (5) The department may transfer all casework
29 responsibilities for children served under this program to the
30 entity that provides this service, including case management
31 and development and implementation of a case plan in

1 accordance with current standards for child protection
2 services. When the department establishes this program in a
3 community that has a lead agency as described in s. 409.1671,
4 the casework responsibilities must be transferred to the lead
5 agency.

6 (6) This section does not prohibit any provider of
7 these services from appropriately billing Medicaid for
8 services rendered, from contracting with a local school
9 district for educational services, or from earning federal or
10 local funding for services provided, as long as two or more
11 funding sources do not pay for the same specific service that
12 has been provided to a child.

13 (7) The lead agency, not-for-profit corporation, or
14 local government entity has the legal authority for children
15 served under this program, as provided in chapter 39 or this
16 chapter, as appropriate, to enroll the child in school, to
17 sign for a driver's license for the child, to cosign loans and
18 insurance for the child, to sign for medical treatment, and to
19 authorize other such activities.

20 (8) The department shall provide technical assistance
21 as requested and contract management services.

22 (9) The provisions of this section shall be
23 implemented to the extent of available appropriations
24 contained in the annual General Appropriations Act for such
25 purpose.

26 (10) The department may adopt rules necessary to
27 administer this section.

28 Section 6. Paragraph (e) of subsection (2) of section
29 409.175, Florida Statutes, is amended, present subsections (3)
30 through (15) of said section are renumbered as subsections (4)
31 through (16), respectively, present subsections (5), (8), (9),

1 and (11) are amended, and a new subsection (3) is added to
2 said section, to read:

3 409.175 Licensure of family foster homes, residential
4 child-caring agencies, and child-placing agencies.--

5 (2) As used in this section, the term:

6 (e) "Family foster home" means a private residence in
7 which children who are unattended by a parent or legal
8 guardian are provided 24-hour care. Such homes include
9 emergency shelter family homes, ~~family foster group homes,~~ and
10 specialized foster homes for children with special needs. A
11 person who cares for a child of a friend for a period not to
12 exceed 90 days, a relative who cares for a child and does not
13 receive reimbursement for such care from the state or federal
14 government, or an adoptive home which has been approved by the
15 department or by a licensed child-placing agency for children
16 placed for adoption is not considered a family foster home.

17 (3)(a) The total number of children placed in each
18 family foster home shall be based on the recommendation of the
19 department, or the community-based care lead agency where one
20 is providing foster care and related services, based on the
21 needs of each child in care, the ability of the foster family
22 to meet the individual needs of each child, including any
23 adoptive or biological children living in the home, the amount
24 of safe physical plant space, the ratio of active and
25 appropriate adult supervision, and the background, experience,
26 and skill of the family foster parents.

27 (b) If the total number of children in a family foster
28 home will exceed five, including the family's own children, a
29 comprehensive behavioral health assessment of each child to be
30 placed in the home must be completed prior to placement of any
31 additional children in the home. The comprehensive behavioral

1 health assessment must comply with Medicaid rules and
2 regulations, assess and document the mental, physical, and
3 psychosocial needs of the child, and recommend the maximum
4 number of children in a family foster home that will allow the
5 child's needs to be met.

6 (c) For any licensed family foster home, the
7 appropriateness of the number of children in the home must be
8 reassessed annually as part of the relicensure process. For a
9 home with more than five children, if it is determined by the
10 licensure study at the time of relicensure that the total
11 number of children in the home is appropriate and that there
12 have been no substantive licensure violations and no
13 indications of child maltreatment or child-on-child sexual
14 abuse within the past 12 months, the relicensure of the home
15 shall not be denied based on the total number of children in
16 the home.

17 (6)(5)(a) An application for a license shall be made
18 on forms provided, and in the manner prescribed, by the
19 department. The department shall make a determination as to
20 the good moral character of the applicant based upon
21 screening.

22 (b) Upon application, the department shall conduct a
23 licensing study based on its licensing rules; shall inspect
24 the home or the agency and the records, including financial
25 records, of the agency; and shall interview the applicant.
26 The department may authorize a licensed child-placing agency
27 to conduct the licensing study of a family foster home to be
28 used exclusively by that agency and to verify to the
29 department that the home meets the licensing requirements
30 established by the department. Upon certification by a
31 licensed child-placing agency that a family foster home meets

1 the licensing requirements, the department shall issue the
2 license.

3 (c) A licensed family foster home, child-placing
4 agency, or residential child-caring agency which applies for
5 renewal of its license shall submit to the department a list
6 of personnel who have worked on a continuous basis at the
7 applicant family foster home or agency since submitting
8 fingerprints to the department, identifying those for whom a
9 written assurance of compliance was provided by the department
10 and identifying those personnel who have recently begun
11 working at the family foster home or agency and are awaiting
12 the results of the required fingerprint check, along with the
13 date of the submission of those fingerprints for processing.
14 The department shall by rule determine the frequency of
15 requests to the Department of Law Enforcement to run state
16 criminal records checks for such personnel except for those
17 personnel awaiting the results of initial fingerprint checks
18 for employment at the applicant family foster home or agency.

19 (d)1. The department may pursue other remedies
20 provided in this section in addition to denial or revocation
21 of a license for failure to comply with the screening
22 requirements. The disciplinary actions determination to be
23 made by the department and the procedure for hearing for
24 applicants and licensees shall be in accordance with chapter
25 120.

26 2. When the department has reasonable cause to believe
27 that grounds for denial or termination of employment exist, it
28 shall notify, in writing, the applicant, licensee, or summer
29 or recreation camp, and the personnel affected, stating the
30 specific record which indicates noncompliance with the
31 screening requirements.

1 3. Procedures established for hearing under chapter
2 120 shall be available to the applicant, licensee, summer day
3 camp, or summer 24-hour camp, and affected personnel, in order
4 to present evidence relating either to the accuracy of the
5 basis for exclusion or to the denial of an exemption from
6 disqualification.

7 4. Refusal on the part of an applicant to dismiss
8 personnel who have been found not to be in compliance with the
9 requirements for good moral character of personnel shall
10 result in automatic denial or revocation of license in
11 addition to any other remedies provided in this section which
12 may be pursued by the department.

13 (e) At the request of the department, the local county
14 health department shall inspect a home or agency according to
15 the licensing rules promulgated by the department. Inspection
16 reports shall be furnished to the department within 30 days of
17 the request. Such an inspection shall only be required when
18 called for by the licensing agency.

19 (f) All residential child-caring agencies must meet
20 firesafety standards for such agencies adopted by the Division
21 of State Fire Marshal of the Department of Insurance and must
22 be inspected annually. At the request of the department,
23 firesafety inspections shall be conducted by the Division of
24 State Fire Marshal or a local fire department official who has
25 been certified by the division as having completed the
26 training requirements for persons inspecting such agencies.
27 Inspection reports shall be furnished to the department within
28 30 days of a request.

29 (g) In the licensing process, the licensing staff of
30 the department shall provide consultation on request.

31

1 (h) Upon determination that the applicant meets the
2 state minimum licensing requirements, the department shall
3 issue a license without charge to a specific person or agency
4 at a specific location. A license may be issued if all the
5 screening materials have been timely submitted; however, a
6 license may not be issued or renewed if any person at the home
7 or agency has failed the required screening. The license is
8 nontransferable. A copy of the license shall be displayed in a
9 conspicuous place. Except as provided in paragraph (j), the
10 license is valid for 1 year from the date of issuance, unless
11 the license is suspended or revoked by the department or is
12 voluntarily surrendered by the licensee. The license is the
13 property of the department.

14 (i) A license issued for the operation of a family
15 foster home or agency, unless sooner suspended, revoked, or
16 voluntarily returned, will expire automatically 1 year from
17 the date of issuance except as provided in paragraph (j).
18 Ninety days prior to the expiration date, an application for
19 renewal shall be submitted to the department by a licensee who
20 wishes to have the license renewed. A license shall be
21 renewed upon the filing of an application on forms furnished
22 by the department if the applicant has first met the
23 requirements established under this section and the rules
24 promulgated hereunder.

25 (j) Except for a family foster group home having a
26 licensed capacity for more than five children,the department
27 may issue a license that is valid for longer than 1 year but
28 no longer than 3 years to a family foster home that:

29 1. Has maintained a license with the department as a
30 family foster home for at least the 3 previous consecutive
31 years;

- 1 2. Remains in good standing with the department; and
2 3. Has not been the subject of a report of child abuse
3 or neglect with any findings of maltreatment.

4

5 A family foster home that has been issued a license valid for
6 longer than 1 year must be monitored and visited as frequently
7 as one that has been issued a 1-year license. The department
8 reserves the right to reduce a licensure period to 1 year at
9 any time.

10 (k) The department may not license summer day camps or
11 summer 24-hour camps. However, the department shall have
12 access to the personnel records of such facilities to ensure
13 compliance with the screening requirements.

14 (9)~~(8)~~(a) The department may deny, suspend, or revoke
15 a license.

16 (b) Any of the following actions by a home or agency
17 or its personnel is a ground for denial, suspension, or
18 revocation of a license:

19 1. An intentional or negligent act materially
20 affecting the health or safety of children in the home or
21 agency.

22 2. A violation of the provisions of this section or of
23 licensing rules promulgated pursuant to this section.

24 3. Noncompliance with the requirements for good moral
25 character as specified in paragraph(5)~~(4)~~(a).

26 4. Failure to dismiss personnel found in noncompliance
27 with requirements for good moral character.

28 (10)~~(9)~~(a) The department may institute injunctive
29 proceedings in a court of competent jurisdiction to:

30

31

- 1 1. Enforce the provisions of this section or any
2 license requirement, rule, or order issued or entered into
3 pursuant thereto; or
- 4 2. Terminate the operation of an agency in which any
5 of the following conditions exist:
- 6 a. The licensee has failed to take preventive or
7 corrective measures in accordance with any order of the
8 department to maintain conformity with licensing requirements.
- 9 b. There is a violation of any of the provisions of
10 this section, or of any licensing requirement promulgated
11 pursuant to this section, which violation threatens harm to
12 any child or which constitutes an emergency requiring
13 immediate action.
- 14 3. Terminate the operation of a summer day camp or
15 summer 24-hour camp providing care for children when such camp
16 has willfully and knowingly refused to comply with the
17 screening requirements for personnel or has refused to
18 terminate the employment of personnel found to be in
19 noncompliance with the requirements for good moral character
20 as determined in paragraph~~(5)~~(4)(a).
- 21 (b) If the department finds, within 30 days after
22 written notification by registered mail of the requirement for
23 licensure, that a person or agency continues to care for or to
24 place children without a license or, within 30 days after
25 written notification by registered mail of the requirement for
26 screening of personnel and compliance with paragraph~~(5)~~(4)(a)
27 for the hiring and continued employment of personnel, that a
28 summer day camp or summer 24-hour camp continues to provide
29 care for children without complying, the department shall
30 notify the appropriate state attorney of the violation of law
31 and, if necessary, shall institute a civil suit to enjoin the

1 person or agency from continuing the placement or care of
2 children or to enjoin the summer day camp or summer 24-hour
3 camp from continuing the care of children.

4 (c) Such injunctive relief may be temporary or
5 permanent.

6 (12)~~(11)~~(a) It is unlawful for any person or agency
7 to:

8 1. Provide continuing full-time care for or to receive
9 or place a child apart from her or his parents in a
10 residential group care facility, family foster home, or
11 adoptive home without a valid license issued by the department
12 if such license is required by subsection(5)~~(4)~~; or

13 2. Make a willful or intentional misstatement on any
14 license application or other document required to be filed in
15 connection with an application for a license.

16 (b) It is unlawful for any person, agency, summer day
17 camp, or summer 24-hour camp providing care for children to:

18 1. Willfully or intentionally fail to comply with the
19 requirements for the screening of personnel or the dismissal
20 of personnel found not to be in compliance with the
21 requirements for good moral character as specified in
22 paragraph(5)~~(4)~~(a).

23 2. Use information from the criminal records obtained
24 under this section for any purpose other than screening a
25 person for employment as specified in this section or to
26 release such information to any other person for any purpose
27 other than screening for employment as specified in this
28 section.

29 (c) It is unlawful for any person, agency, summer day
30 camp, or summer 24-hour camp providing care for children to
31 use information from the juvenile records of any person

1 obtained under this section for any purpose other than
2 screening for employment as specified in this section or to
3 release information from such records to any other person for
4 any purpose other than screening for employment as specified
5 in this section.

6 (d)1. A first violation of paragraph (a) or paragraph
7 (b) is a misdemeanor of the first degree, punishable as
8 provided in s. 775.082 or s. 775.083.

9 2. A second or subsequent violation of paragraph (a)
10 or paragraph (b) is a felony of the third degree, punishable
11 as provided in s. 775.082 or s. 775.083.

12 3. A violation of paragraph (c) is a felony of the
13 third degree, punishable as provided in s. 775.082, s.
14 775.083, or s. 775.084.

15 Section 7. Subsection (24) of section 409.906, Florida
16 Statutes, is amended to read:

17 409.906 Optional Medicaid services.--Subject to
18 specific appropriations, the agency may make payments for
19 services which are optional to the state under Title XIX of
20 the Social Security Act and are furnished by Medicaid
21 providers to recipients who are determined to be eligible on
22 the dates on which the services were provided. Any optional
23 service that is provided shall be provided only when medically
24 necessary and in accordance with state and federal law.
25 Optional services rendered by providers in mobile units to
26 Medicaid recipients may be restricted or prohibited by the
27 agency. Nothing in this section shall be construed to prevent
28 or limit the agency from adjusting fees, reimbursement rates,
29 lengths of stay, number of visits, or number of services, or
30 making any other adjustments necessary to comply with the
31 availability of moneys and any limitations or directions

1 provided for in the General Appropriations Act or chapter 216.
2 If necessary to safeguard the state's systems of providing
3 services to elderly and disabled persons and subject to the
4 notice and review provisions of s. 216.177, the Governor may
5 direct the Agency for Health Care Administration to amend the
6 Medicaid state plan to delete the optional Medicaid service
7 known as "Intermediate Care Facilities for the Developmentally
8 Disabled." Optional services may include:

9 (24) CHILD-WELFARE-TARGETED CASE MANAGEMENT.--The
10 Agency for Health Care Administration, in consultation with
11 the Department of Children and Family Services, may establish
12 a targeted case-management ~~pilot~~ project in those counties
13 identified by the Department of Children and Family Services
14 and for all counties with a ~~the~~ community-based child welfare
15 project ~~in Sarasota and Manatee counties~~, as authorized under
16 s. 409.1671, which have been specifically approved by the
17 department. ~~These projects shall be established for the~~
18 ~~purpose of determining the impact of targeted case management~~
19 ~~on the child welfare program and the earnings from the child~~
20 ~~welfare program.~~Results of targeted case management ~~the pilot~~
21 projects shall be reported to ~~the Child Welfare Estimating~~
22 ~~Conference~~ and the Social Services Estimating Conference
23 established under s. 216.136. ~~The number of projects may not~~
24 ~~be increased until requested by the Department of Children and~~
25 ~~Family Services, recommended by the Child Welfare Estimating~~
26 ~~Conference and the Social Services Estimating Conference, and~~
27 ~~approved by the Legislature.~~The covered group of individuals
28 who are eligible to receive targeted case management include
29 children who are eligible for Medicaid; who are between the
30 ages of birth through 21; and who are under protective
31 supervision or postplacement supervision, under foster-care

1 supervision, or in shelter care or foster care. The number of
2 individuals who are eligible to receive targeted case
3 management shall be limited to the number for whom the
4 Department of Children and Family Services has available
5 matching funds to cover the costs. The general revenue funds
6 required to match the funds for services provided by the
7 community-based child welfare projects are limited to funds
8 available for services described under s. 409.1671. The
9 Department of Children and Family Services may transfer the
10 general revenue matching funds as billed by the Agency for
11 Health Care Administration.

12 Section 8. Section 393.0657, Florida Statutes, is
13 amended to read:

14 393.0657 Persons not required to be refingerprinted or
15 rescreened.--Any provision of law to the contrary
16 notwithstanding, human resource personnel who have been
17 fingerprinted or screened pursuant to chapters 393, 394, 397,
18 402, and 409, and teachers who have been fingerprinted
19 pursuant to chapter 231, who have not been unemployed for more
20 than 90 days thereafter, and who under the penalty of perjury
21 attest to the completion of such fingerprinting or screening
22 and to compliance with the provisions of this section and the
23 standards for good moral character as contained in such
24 provisions as ss. 110.1127(3), 393.0655(1), 394.457(6),
25 397.451, 402.305(2), and 409.175(5)(~~4~~), shall not be required
26 to be refingerprinted or rescreened in order to comply with
27 any direct service provider screening or fingerprinting
28 requirements.

29 Section 9. Section 402.3057, Florida Statutes, is
30 amended to read:

31

1 402.3057 Persons not required to be refingerprinted or
2 rescreened.--Any provision of law to the contrary
3 notwithstanding, human resource personnel who have been
4 fingerprinted or screened pursuant to chapters 393, 394, 397,
5 402, and 409, and teachers and noninstructional personnel who
6 have been fingerprinted pursuant to chapter 231, who have not
7 been unemployed for more than 90 days thereafter, and who
8 under the penalty of perjury attest to the completion of such
9 fingerprinting or screening and to compliance with the
10 provisions of this section and the standards for good moral
11 character as contained in such provisions as ss. 110.1127(3),
12 393.0655(1), 394.457(6), 397.451, 402.305(2), and
13 409.175(5)~~(4)~~, shall not be required to be refingerprinted or
14 rescreened in order to comply with any caretaker screening or
15 fingerprinting requirements.

16 Section 10. Section 409.1757, Florida Statutes, is
17 amended to read:

18 409.1757 Persons not required to be refingerprinted or
19 rescreened.--Any provision of law to the contrary
20 notwithstanding, human resource personnel who have been
21 fingerprinted or screened pursuant to chapters 393, 394, 397,
22 402, and this chapter, and teachers who have been
23 fingerprinted pursuant to chapter 231, who have not been
24 unemployed for more than 90 days thereafter, and who under the
25 penalty of perjury attest to the completion of such
26 fingerprinting or screening and to compliance with the
27 provisions of this section and the standards for good moral
28 character as contained in such provisions as ss. 110.1127(3),
29 393.0655(1), 394.457(6), 397.451, 402.305(2), and
30 409.175(5)~~(4)~~, shall not be required to be refingerprinted or
31

1 rescreened in order to comply with any caretaker screening or
2 fingerprinting requirements.

3 Section 11. The Office of Program Policy Analysis and
4 Government Accountability, in consultation with the Department
5 of Children and Family Services and the Agency for Health Care
6 Administration, shall conduct a review of the process for
7 placing children for residential mental health treatment as
8 specified in section 39.407(5), Florida Statutes. This review
9 is to be used to determine whether changes are needed in this
10 process. The integrity of the examination process that is
11 intended to ensure that only a child with an emotional
12 disturbance or a serious emotional disturbance is placed in a
13 residential mental health facility and to ensure that a child
14 who is diagnosed with an emotional disturbance or a serious
15 emotional disturbance receives the most appropriate mental
16 health treatment in the least restrictive setting must be
17 maintained. The review shall analyze and make recommendations
18 relative to issues pertinent to the process such as the number
19 of children who are assessed and the outcomes of the
20 assessments, the costs associated with the suitability
21 assessments based on geographic differentials, delays in
22 receiving appropriate mental health treatment services in both
23 residential and nonresidential settings which can be
24 attributed to the assessment process, and the need to expand
25 the mental health professional groups who may conduct the
26 suitability assessment. The Office of Program Policy Analysis
27 and Government Accountability shall submit a report of its
28 findings and any proposed changes to substantive law to the
29 Executive Office of the Governor, the President of the Senate,
30 and the Speaker of the House of Representatives by January 1,
31 2003.

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Section 12. This act shall take effect July 1, 2002.